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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/761,108

01/19/2004

Andrew D. Cohen

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11/10/2009

BANNER & WITCOFF, LTD

ATTORNEYS FOR CLIENT NUMBER 007412

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EXAMINER

BAIG, SAHAR A

ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

11/10/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/761,108	<b>Applicant(s)</b> COHEN, ANDREW D.	
	<b>Examiner</b> SAHAR A. BAIG	<b>Art Unit</b> 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,6,9-13 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 9-13, and 18-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see Remarks filed 08/04/2009, with respect to claims 1, 2, 6, 9-13, and 18-27 have been fully considered but are not persuasive.

Applicant argues that the Fichet reference fails to show that the SetUp application is executed responsive to a television being initially electrically connected to the receiver/decoder and that initially using the receiver/decoder is not the same as initially electrically connecting (as claimed) an HDTV to the receiver/decoder.

Examiner respectfully disagrees. Paragraph **0182** of Fichet teaches that the SetUp function is performed the first time the receiver/decoder is configured. It performs functions such as scanning for TV channels. This is consistent with the teachings of the art which suggest that an HDTV, upon being hooked up, undergoes an initial scanning stage where the TV channels are scanned to determine the viewable channels **[0055]**. Since for a device to be configured it must first be electrically coupled, the SetUp utility is performed in response to the television being initially electrically connected to the receiver/decoder. Further applicant's own specification teaches that the initial connecting is equivalent to what Fichet teaches.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 6, 9-13, and 18-27 rejected under 35 U.S.C. 103(a) as being unpatentable over Stone et al. US Patent Publication No. 2005/0120384 in view of Fichet US Patent Publication No. 2002/0184643.

Regarding Claim 1, 11, 20, 24 Stone discloses a system for providing television (TV) service including high definition television (HDTV) service FIGURE 3, and for providing verification that a subscriber has connected an HDTV to the system [0019], the HDTV having an HDTV digital video interface (DVI) interconnect [FIGURE 3 DVI/HDMI 114 and TMDS LINK 128], the system comprising: a set top box (STB) [FIGURE 2 Terminal 103] configured to be coupled to a TV service provider headend [FIGURE 2 Headend 102] and having an STB DVI interconnect [FIGURE 3 DVI/HDMI 114 and TMDS LINK 128]. Stone **is silent regarding the HDTV presenting a data signal to the STB and the STB presenting the data signal to the headend when the HDTV DVI interconnect is initially electrically coupled to the STB DVI interconnect.** In an analogous art, Fichet discloses that it is well known in the art to configure the receiver (HDTV unit) when it is initially electrically coupled to the STB [0182]. Therefore it would have been obvious to one of ordinary skill in the art to combine the teachings of Stone and Fichet to produce a system capable of sending a verification signal back to the headend to identify a particular type of HDTV

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[Stone 0005 lines 9-10] for the consumer advantage of connecting to a network automatically.

Regarding Claim 2, 12, 22, 23, 26-27, Stone discloses a system wherein the data signal comprises manufacturer and model of the HDTV [0027 lines 1-6].

Regarding Claim 6, 13, 21, Stone discloses a system wherein the STB is configured to present a control signal to the HDTV and the HDTV is configured to present the data signal in response to the control signal [0028 I2C bus 128 is used to communicate between the HDTV and the STB].

Regarding Claim 9, 10, 18, 19 Fichet explicitly discloses a system wherein the TV service provider headend is at least one of a cable TV provider headend and a satellite TV headend [0008 *The broadcast system preferably includes a broadcast medium such as a satellite link, cable (including optical fibre), or terrestrial broadcast..*].

Regarding Claim 25, Fichet discloses a video decoder 234 in the receiving unit 13 [Figure 5] in communication with the headend.

### ***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAHAR A. BAIG whose telephone number is (571)270-3005. The examiner can normally be reached on Monday-Friday (8:00 - 4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/  
Supervisory Patent Examiner, Art  
Unit 2424

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